

HOUSE BILL No. 1816

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-9; IC 31-9-2; IC 31-14-16-1; IC 31-15; IC 34-6-2; IC 34-26; IC 35-33-1-1; IC 35-38-1-7.1; IC 35-41-1.

Synopsis: Protective orders. Requires the clerk of a court that issues a workplace violence restraining order to provide a copy of the order and the confidential sheet to the employer. Requires the division of state court administration to develop and adopt forms for no contact orders and workplace violence restraining orders. Amends the definitions of: (1) domestic or family violence; (2) family or household member; (3) employee; and (4) employer. Requires certain language to appear on a protective order, no contact order, and workplace violence restraining order. Provides that a parent in a paternity or divorce proceeding may request a protective order against the other parent from the court in which the paternity or divorce matter is pending. Provides that a court may issue certain types of relief in a protective order before a hearing. Provides that a court may consider violation of a no contact order or a workplace violence restraining order in determining the sentence to impose for a crime.

Effective: July 1, 2003.

Lawson L, Scholer, Mays

January 23, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1816



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-9-1.4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 1.4. As used in this chapter, "employer" has the**
4 **meaning set forth in IC 34-26-6-4.**

5 SECTION 2. IC 5-2-9-1.7 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2003]: **Sec. 1.7. As used in this chapter, "protected person"**
8 **means a person who is protected under a protective order, a no**
9 **contact order, or a workplace violence restraining order.**

10 SECTION 3. IC 5-2-9-6, AS AMENDED BY P.L.133-2002,
11 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2003]: **Sec. 6. (a) The clerk of a court that issues a protective**
13 **order, a no contact order, or a workplace violence restraining order**
14 **shall provide a copy of the order to each of the following:**

- 15 (1) Each party.
- 16 (2) A law enforcement agency of the municipality in which the
17 **protected person protected by the protective order, no contact**



order, or workplace violence restraining order resides.

(3) **In the case of a workplace violence restraining order, the law enforcement agency of the municipality in which the workplace of the employer is located.**

(4) If the **protected** person ~~protected by the protective order, no contact order, or workplace violence restraining order~~ **does is not reside domiciled** in a municipality, the sheriff of the county in which the protected person resides.

(5) **In the case of a workplace violence restraining order, if the workplace of the employer is not located in a municipality, the sheriff of the county in which the workplace of the employer is located.**

(b) The clerk of a court that issues a protective order, a no contact order, or a workplace violence restraining order or the clerk of a court in which a petition is filed shall:

(1) maintain a confidential file to secure any confidential information about a protected person designated on a uniform statewide form prescribed by the division of state court administration; ~~and~~

(2) provide a copy of the confidential form that accompanies the protective order, no contact order, or workplace violence restraining order to the following:

(A) The sheriff of the county in which the protective order, no contact order, or workplace violence restraining order was issued.

(B) The law enforcement agency of:

(i) the municipality, if any, in which the protected person ~~resides; is domiciled; and~~

(ii) **in the case of a workplace violence restraining order, the municipality, if any, in which the employer's workplace is located.**

(C) Any other sheriff or law enforcement agency designated in the protective order, no contact order, or workplace violence restraining order that has jurisdiction over the area in which a protected person **or, in the case of a workplace violence restraining order, an employer,** may be located or protected; **and**

(3) after receiving the return of service information, transmit all return of service information to each sheriff and law enforcement agency referred to in subdivision (2).

(c) A sheriff or law enforcement agency that receives a protective order, no contact order, or workplace violence restraining order under

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- 1 subsection (a) and a confidential form under subsection (b) shall:
- 2 (1) maintain a copy of the protective order, no contact order, or
- 3 workplace violence restraining order in the depository established
- 4 under this chapter;
- 5 (2) enter:
- 6 (A) the date and time the sheriff or law enforcement agency
- 7 receives the protective order, no contact order, or workplace
- 8 violence restraining order;
- 9 (B) the location of the person who is subject to the protective
- 10 order, no contact order, or workplace violence restraining
- 11 order, if reasonably ascertainable from the information
- 12 received;
- 13 (C) the name and identification number of the officer who
- 14 serves the protective order, no contact order, or workplace
- 15 violence restraining order;
- 16 (D) the manner in which the protective order, no contact order,
- 17 or workplace violence restraining order is served;
- 18 (E) the name of the petitioner and any other protected parties;
- 19 (F) the name, Social Security number, date of birth, and
- 20 physical description of the person who is the subject of the
- 21 protective order, no contact order, or workplace violence
- 22 restraining order, if reasonably ascertainable from the
- 23 information received;
- 24 (G) the date the protective order, no contact order, or
- 25 workplace violence restraining order expires;
- 26 (H) a caution indicator stating whether a person who is the
- 27 subject of the protective order, no contact order, or workplace
- 28 violence restraining order is believed to be armed and
- 29 dangerous, if reasonably ascertainable from the information
- 30 received; and
- 31 (I) if furnished, a Brady record indicator stating whether a
- 32 person who is the subject of the protective order, no contact
- 33 order, or workplace violence restraining order is prohibited
- 34 from purchasing or possessing a firearm or ammunition under
- 35 federal law, if reasonably ascertainable from the information
- 36 received;
- 37 on the copy of the protective order, no contact order, or workplace
- 38 violence restraining order or the confidential form; and
- 39 (3) establish a confidential file in which a confidential form that
- 40 contains information concerning a protected person is kept.
- 41 (d) A protective order, no contact order, or workplace violence
- 42 restraining order may be removed from the depository established

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1 under this chapter only if the sheriff or law enforcement agency that
2 administers the depository receives:

- 3 (1) a notice of termination on a form prescribed or approved by
4 the division of state court administration;
5 (2) an order of the court; or
6 (3) a notice of termination and an order of the court.

7 (e) If a protective order, no contact order, or workplace violence
8 restraining order in a depository established under this chapter is
9 terminated, the person who obtained the order must file a notice of
10 termination on a form prescribed or approved by the division of state
11 court administration with the clerk of the court. The clerk of the court
12 shall provide a copy of the notice of termination of a protective order,
13 no contact order, or workplace violence restraining order to each of the
14 depositories to which the protective order, no contact order, or
15 workplace violence restraining order and a confidential form were sent.
16 The clerk of the court shall maintain the notice of termination in the
17 court's file.

18 (f) If a protective order, no contact order, or workplace violence
19 restraining order or form in a depository established under this chapter
20 is extended or modified, the person who obtained the extension or
21 modification must file a notice of extension or modification on a form
22 prescribed or approved by the division of state court administration
23 with the clerk of the court. The clerk of the court shall provide a copy
24 of the notice of extension or modification of a protective order, no
25 contact order, or workplace violence restraining order to each of the
26 depositories to which the order and a confidential form were sent. The
27 clerk of the court shall maintain the notice of extension or modification
28 of a protective order, no contact order, or workplace violence
29 restraining order in the court's file.

30 (g) The clerk of a court that issued an order terminating a protective
31 order, no contact order, or workplace violence restraining order that is
32 an ex parte order shall provide a copy of the order to the following:

- 33 (1) Each party.
34 (2) The law enforcement agency provided with a copy of a
35 protective order, no contact order, or workplace violence
36 restraining order under subsection (a).

37 SECTION 4. IC 31-9-2-42, AS AMENDED BY P.L.133-2002,
38 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2003]: Sec. 42. "Domestic or family violence" means, except
40 for an act of self defense, the occurrence of one (1) or more of the
41 following acts committed by a family or household member:

- 42 (1) Attempting to cause, threatening to cause, or causing physical

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1 harm to another family or household member without legal
2 justification.

3 (2) Placing a family or household member in fear of physical
4 harm without legal justification.

5 (3) Causing a family or household member to involuntarily
6 engage in sexual activity by force, threat of force, or duress.

7 For purposes of IC 34-26-5, domestic ~~and~~ or family violence also
8 includes stalking (as defined in IC 35-45-10-1) or a sex offense under
9 IC 35-42-4, **whether or not the stalking or sex offense is committed**
10 **by a family or household member.**

11 SECTION 5. IC 31-9-2-44.5, AS ADDED BY P.L.133-2002,
12 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2003]: Sec. 44.5. **(a) An individual is a "family or household**
14 **member" means: of another person if the individual:**

15 (1) ~~a person who~~ is a current or former spouse **of the other**
16 **person;**

17 (2) ~~a person who~~ is dating or has dated **the other person;**

18 (3) ~~a person who~~ is engaged or was engaged in a sexual
19 relationship **with the other person;**

20 (4) **cohabits or previously cohabited with the other person;**

21 (5) ~~a person who~~ is related by blood or adoption **to the other**
22 **person;**

23 ~~(5) (6) a person who~~ is related or was related by marriage **to the**
24 **other person;**

25 ~~(6) (7) a person who~~ has an established legal relationship or
26 previously **had an** established a legal relationship:

27 (A) as a guardian **of the other person;**

28 (B) as a ward **of the other person;**

29 (C) as a custodian **of the other person;**

30 (D) as a foster parent **of the other person;** or

31 (E) in a capacity similar to those listed in clauses (A) through

32 (D) **with the other person; or**

33 ~~(7) (8) a person who~~ has a child in common **and with the other**
34 **person.**

35 ~~(8) (b) An individual is a "family or household member" of both~~
36 ~~persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5),~~
37 ~~(a)(6), (a)(7), or (a)(8) applies if the individual is a minor child of a~~
38 ~~person in a relationship described in subdivisions (1) through (7): one~~
39 ~~(1) of the persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4),~~
40 ~~(a)(5), (a)(6), (a)(7), or (a)(8) applies.~~

41 SECTION 6. IC 31-14-16-1, AS AMENDED BY P.L.133-2002,
42 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2003]: Sec. 1. A parent may request a court to issue a
 2 protective order against the other parent to prevent domestic or family
 3 violence at any time after a final decree of paternity is issued under this
 4 article (or IC 31-6-6.1 before its repeal) if the parties have an
 5 unemancipated child. The parent must file a petition under IC 34-26-5
 6 in a ~~pending case~~, **the court in which the case is pending**, and the
 7 court may not require the moving party to give security. If the petitioner
 8 requests an ex parte protective order, the court shall immediately:

- 9 (1) review the request; and
 10 (2) if required, set a hearing;

11 under IC 34-26-5. The procedure and law for a proceeding under this
 12 section are controlled by IC 34-26-5.

13 SECTION 7. IC 31-15-4-1, AS AMENDED BY P.L.133-2002,
 14 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2003]: Sec. 1. (a) In an action for dissolution of marriage
 16 under IC 31-15-2 or legal separation under IC 31-15-3, either party
 17 may file a motion for any of the following:

- 18 (1) Temporary maintenance.
 19 (2) Temporary support or custody of a child of the marriage
 20 entitled to support.
 21 (3) Possession of property.
 22 (4) Counseling.
 23 (5) A protective order under IC 34-26-5.

24 (b) If a party desires a protective order under subsection (a)(5), the
 25 party must file a petition under IC 34-26-5 in a ~~pending case~~, **the court**
 26 **in which the case is pending**, and the court may not require the
 27 moving party to give security. If the petitioner requests an ex parte
 28 protective order, the court shall immediately:

- 29 (1) review the request; and
 30 (2) if required, set a hearing;

31 under IC 34-26-5. The procedure and law for a proceeding under this
 32 subsection are controlled by IC 34-26-5.

33 SECTION 8. IC 31-15-5-1, AS AMENDED BY P.L.133-2002,
 34 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2003]: Sec. 1. Either party may request a protective order to
 36 prevent domestic or family violence at any time during the dissolution
 37 of marriage or legal separation action by filing a petition under
 38 IC 34-26-5 ~~with in~~ the court in **which the case is pending**. ~~case~~. The
 39 court may not require the moving party to give security. If the petitioner
 40 requests an ex parte protective order, the court shall immediately:

- 41 (1) review the request; and
 42 (2) if required, set a hearing;

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1 under IC 34-26-5. The procedure and law for a proceeding under this
2 section are controlled by IC 34-26-5.

3 SECTION 9. IC 34-6-2-34.5, AS ADDED BY P.L.133-2002,
4 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2003]: Sec. 34.5. "Domestic or family violence" means,
6 except for an act of self-defense, the occurrence of at least one (1) of
7 the following acts committed by a family or household member:

8 (1) Attempting to cause, threatening to cause, or causing physical
9 harm to another family or household member.

10 (2) Placing a family or household member in fear of physical
11 harm.

12 (3) Causing a family or household member to involuntarily
13 engage in sexual activity by force, threat of force, or duress.

14 For purposes of IC 34-26-5, domestic ~~and~~ **or** family violence also
15 includes stalking (as defined in IC 35-45-10-1) or a sex offense under
16 IC 35-42-4, **whether or not the stalking or sex offense is committed**
17 **by a family or household member.**

18 SECTION 10. IC 34-6-2-44.8, AS ADDED BY P.L.133-2002,
19 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2003]: Sec. 44.8. **(a) An individual is a "family or household**
21 **member" means: of another person if the individual:**

22 (1) ~~a person who~~ is a current or former spouse **of the other**
23 **person;**

24 (2) ~~a person who~~ is dating or has dated **the other person;**

25 (3) ~~a person who~~ is ~~engaged~~ or was engaged in a sexual
26 relationship **with the other person;**

27 (4) **cohabits or previously cohabited with the other person;**

28 (5) ~~a person who~~ is related by blood or adoption **to the other**
29 **person;**

30 ~~(5) (6) a person who~~ is related or was related by marriage **to the**
31 **other person;**

32 ~~(6) (7) a person who~~ has an established legal relationship or
33 previously **had an** established a legal relationship:

34 (A) as a guardian **of the other person;**

35 (B) as a ward **of the other person;**

36 (C) as a custodian **of the other person;**

37 (D) as a foster parent **of the other person;** or

38 (E) in a capacity similar to those listed in clauses (A) through

39 (D) **with the other person; or**

40 ~~(7) a person who~~ **(8) has a child in common and with the other**
41 **person.**

42 ~~(8) (b) An individual is a "family or household member" of both~~

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1 **persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5),**
 2 **(a)(6), (a)(7), or (a)(8) applies if the individual is a minor child of a**
 3 **person in a relationship described in subdivisions (1) through (7): one**
 4 **(1) of the persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4),**
 5 **(a)(5), (a)(6), (a)(7), or (a)(8) applies.**

6 SECTION 11. IC 34-26-5-3, AS ADDED BY P.L.133-2002,
 7 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2003]: Sec. 3. (a) The division of state court administration
 9 shall:

10 (1) develop and adopt:

11 (A) a petition for an order for protection;

12 (B) an order for protection, including:

13 (i) orders issued under this chapter;

14 (ii) ex parte orders; ~~and~~

15 (iii) no contact orders under IC 31 and IC 35; ~~and~~

16 **(iv) forms relating to workplace violence restraining**
 17 **orders under IC 34-26-6;**

18 (C) a confidential ~~sheet~~; ~~form~~;

19 (D) a notice of modification or extension for an order for
 20 protection, **a no contact order, or a workplace violence**
 21 **restraining order;**

22 (E) a notice of termination for an order for protection, **a no**
 23 **contact order, or a workplace violence restraining order;**
 24 and

25 (F) any other uniform statewide forms necessary to maintain
 26 an accurate registry of orders; and

27 (2) provide the forms under subdivision (1) to the clerk of each
 28 court authorized to issue the orders.

29 (b) In addition to any other required information, a petition for an
 30 order for protection must contain a statement listing each civil or
 31 criminal action involving:

32 (1) either party; or

33 (2) a child of either party.

34 (c) The following statements must be printed in boldface type or in
 35 capital letters on an order for protection, **a no contact order, or a**
 36 **workplace violence restraining order:**

37 VIOLATION OF THIS ORDER IS PUNISHABLE BY
 38 CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

39 IF SO ORDERED BY THE COURT, THE RESPONDENT IS
 40 FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S
 41 RESIDENCE, EVEN IF INVITED TO DO SO BY THE
 42 PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS

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1 THE ORDER FOR PROTECTION VOIDED.
 2 PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR
 3 PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT
 4 IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE
 5 ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT
 6 STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g),
 7 **ONCE A RESPONDENT HAS RECEIVED NOTICE OF**
 8 **THIS ORDER AND HAS HAD AN OPPORTUNITY TO BE**
 9 **HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE,**
 10 **RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO**
 11 **THIS ORDER IF:**

- 12 (A) THE PROTECTED PERSON IS THE
 13 RESPONDENT'S CURRENT OR FORMER SPOUSE;
 14 (B) THE RESPONDENT CURRENTLY RESIDES OR
 15 FORMERLY RESIDED WITH THE PROTECTED
 16 PERSON WHILE IN AN INTIMATE RELATIONSHIP;
 17 OR
 18 (C) THE RESPONDENT HAS HAD A CHILD WITH
 19 THE PROTECTED PERSON.

20 INTERSTATE VIOLATION OF THIS ORDER MAY
 21 SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL
 22 PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

23 (d) The clerk of the circuit court, or a person or entity designated by
 24 the clerk of the circuit court, shall provide to a person requesting an
 25 order for protection:

- 26 (1) the forms adopted under subsection (a);
 27 (2) all other forms required to petition for an order for protection,
 28 including forms:
 29 (A) necessary for service; and
 30 (B) required under IC 31-17-3; and
 31 (3) clerical assistance in reading or completing the forms and
 32 filing the petition.

33 Clerical assistance provided by the clerk or court personnel under this
 34 section does not constitute the practice of law. The clerk of the circuit
 35 court may enter into a contract with a person or another entity to
 36 provide this assistance.

37 (e) A petition for an order for protection must be:

- 38 (1) verified or under oath under Trial Rule 11; and
 39 (2) issued on the forms adopted under subsection (a).

40 (f) If an order for protection is issued under this chapter, the clerk
 41 shall comply with IC 5-2-9.

42 SECTION 12. IC 34-26-5-6, AS ADDED BY P.L.133-2002,



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1 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2003]: Sec. 6. The following rules apply to an order for
3 protection issued under this chapter:

4 (1) An order for protection is in addition to, and not instead of,
5 another available civil or criminal proceeding.

6 (2) A petitioner is not barred from seeking an order because of
7 another pending proceeding.

8 (3) A court may not delay granting relief because of the existence
9 of a pending action between the petitioner and respondent.

10 (4) If a person who petitions for an ex parte order for protection
11 also has a pending case involving:

12 (A) the respondent; or

13 (B) a child of the petitioner and respondent;

14 the court that has been petitioned for relief shall immediately
15 consider the ex parte petition and then transfer that matter to the
16 court in which the other case is pending.

17 **(5) If a person files a petition for an order of protection**
18 **requesting relief that:**

19 **(A) may be provided without a hearing under sections 9(b)**
20 **and 10(a) of this chapter; but**

21 **(B) requires a hearing under sections 9(c) and 10(b) of this**
22 **chapter;**

23 **the court may issue an ex parte order for protection providing**
24 **the requested relief at any time before the required hearing**
25 **referred to in clause (B).**

26 SECTION 13. IC 34-26-5-7, AS ADDED BY P.L.133-2002,
27 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2003]: Sec. 7. A petitioner may omit the petitioner's address
29 from all nonconfidential documents filed with a court. However, a
30 petitioner must provide the court with complete information concerning
31 the protected address on the uniform statewide confidential ~~sheet~~ **form**
32 and on other confidential forms developed by the division of state court
33 administration under section 3 of this chapter. A petitioner shall also
34 provide the clerk with a public mailing address for purposes of serving
35 pleadings, notices, and court orders. The petitioner may use the address
36 confidentiality program under IC 5-26.5. If disclosure of a petitioner's
37 address is necessary to determine jurisdiction or to consider venue, the
38 court may order the disclosure to be made:

39 (1) after receiving a petitioner's consent;

40 (2) orally in the judge's chambers and out of the presence of a
41 respondent with a sealed record made; or

42 (3) after a hearing in which the court considers the safety of a

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1 petitioner and finds that disclosure of the address is in the interest
2 of justice.

3 SECTION 14. IC 34-26-6-3, AS ADDED BY P.L.133-2002,
4 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2003]: Sec. 3. As used in this chapter, "employee" means:

- 6 ~~(+) an employee (as defined in IC 22-2-2-3);~~ **(1) a person**
7 **employed or permitted to work or perform a service for**
8 **remuneration;**
9 (2) a member of a board of directors for a private, public, or
10 quasi-public corporation;
11 (3) an elected or appointed public officer; and
12 (4) a volunteer or an independent contractor who performs
13 services for an employer at the employer's place of work.

14 SECTION 15. IC 34-26-6-4, AS ADDED BY P.L.133-2002,
15 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2003]: Sec. 4. As used in this chapter, "employer" means:

- 17 (1) a person ~~(as defined as an employer under IC 22-2-2-3; in~~
18 **IC 33-2.1-8-1) that has two (2) or more employees during any**
19 **work week;**
20 (2) a federal agency;
21 (3) the state;
22 ~~(4) a state agency;~~
23 ~~(5) a city;~~
24 ~~(6) a county;~~
25 ~~(7) (4) a private, public, or quasi-public corporation or a public~~
26 ~~agency; and~~
27 ~~(8) (5) a public agency operating wholly within or as part of a~~
28 ~~public or quasi-public corporation.~~

29 SECTION 16. IC 34-26-6-14, AS ADDED BY P.L.133-2002,
30 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2003]: Sec. 14. A filing fee may not be charged for a petition
32 that alleges that a person has:

- 33 (1) inflicted or threatened violence against an employee of the
34 ~~petitioner;~~ **plaintiff;**
35 (2) stalked an employee of the ~~petitioner;~~ **plaintiff;** or
36 (3) spoken in a manner that has placed an employee in reasonable
37 fear of violence;

38 and that seeks a temporary restraining order or an injunction to restrain
39 future violence or threats of violence. A filing fee may not be charged
40 for a responsive pleading described under section 8 of this chapter.

41 SECTION 17. IC 35-33-1-1, AS AMENDED BY P.L.133-2002,
42 SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2003]: Sec. 1. (a) A law enforcement officer may arrest a
2 person when the officer has:

- 3 (1) a warrant commanding that the person be arrested;
4 (2) probable cause to believe the person has committed or
5 attempted to commit, or is committing or attempting to commit,
6 a felony;
7 (3) probable cause to believe the person has violated the
8 provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1),
9 IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;
10 (4) probable cause to believe the person is committing or
11 attempting to commit a misdemeanor in the officer's presence;
12 (5) probable cause to believe the person has committed a:
13 (A) battery resulting in bodily injury under IC 35-42-2-1; or
14 (B) domestic battery under IC 35-42-2-1.3.

15 The officer may use an affidavit executed by an individual alleged
16 to have direct knowledge of the incident alleging the elements of
17 the offense of battery to establish probable cause;

- 18 (6) probable cause to believe that the person violated
19 IC 35-46-1-15.1 (invasion of privacy);
20 (7) probable cause to believe that the person violated
21 IC 35-47-2-1 (carrying a handgun without a license) or
22 IC 35-47-2-22 (counterfeit handgun license); ~~or~~
23 (8) probable cause to believe that the person is violating or has
24 violated an order issued under IC 35-50-7; ~~or~~
25 **(9) probable cause to believe that the person is:**
26 **(A) violating or has violated IC 35-45-2-5 (interference**
27 **with the reporting of a crime); and**
28 **(B) interfering with or preventing the reporting of a crime**
29 **involving domestic or family violence (as defined in**
30 **IC 34-6-2-34.5).**

31 (b) A person who:

- 32 (1) is employed full time as a federal enforcement officer;
33 (2) is empowered to effect an arrest with or without warrant for a
34 violation of the United States Code; and
35 (3) is authorized to carry firearms in the performance of the
36 person's duties;

37 may act as an officer for the arrest of offenders against the laws of this
38 state where the person reasonably believes that a felony has been or is
39 about to be committed or attempted in the person's presence.

40 SECTION 18. IC 35-38-1-7.1, AS AMENDED BY P.L.133-2002,
41 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2003]: Sec. 7.1. (a) In determining what sentence to impose

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1 for a crime, the court shall consider:

- 2 (1) the risk that the person will commit another crime;
- 3 (2) the nature and circumstances of the crime committed;
- 4 (3) the person's:
- 5 (A) prior criminal record;
- 6 (B) character; and
- 7 (C) condition;
- 8 (4) whether the victim of the crime was less than twelve (12)
- 9 years of age or at least sixty-five (65) years of age;
- 10 (5) whether the person committed the offense in the presence or
- 11 within hearing of a person who is less than eighteen (18) years of
- 12 age who was not the victim of the offense;
- 13 (6) whether the person violated a protective order issued against
- 14 the person under ~~IC 31-15~~, ~~IC 31-16~~, or IC 34-26-5 (or
- 15 IC 31-1-11.5, IC 34-26-2, or IC 34-4-5.1 before their repeal), a
- 16 **workplace violence restraining order issued against the**
- 17 **person under IC 34-26-6, or a no contact order issued against**
- 18 **the person;** and
- 19 (7) any oral or written statement made by a victim of the crime.

20 (b) The court may consider the following factors as aggravating

21 circumstances or as favoring imposing consecutive terms of

22 imprisonment:

- 23 (1) The person has recently violated the conditions of any
- 24 probation, parole, or pardon granted to the person.
- 25 (2) The person has a history of criminal or delinquent activity.
- 26 (3) The person is in need of correctional or rehabilitative
- 27 treatment that can best be provided by commitment of the person
- 28 to a penal facility.
- 29 (4) Imposition of a reduced sentence or suspension of the
- 30 sentence and imposition of probation would depreciate the
- 31 seriousness of the crime.
- 32 (5) The victim of the crime was less than twelve (12) years of age
- 33 or at least sixty-five (65) years of age.
- 34 (6) The victim of the crime was mentally or physically infirm.
- 35 (7) The person committed a forcible felony while wearing a
- 36 garment designed to resist the penetration of a bullet.
- 37 (8) The person committed a sex crime listed in subsection (e) and:
- 38 (A) the crime created an epidemiologically demonstrated risk
- 39 of transmission of the human immunodeficiency virus (HIV)
- 40 and involved the sex organ of one (1) person and the mouth,
- 41 anus, or sex organ of another person;
- 42 (B) the person had knowledge that the person was a carrier of

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- 1 HIV; and
 2 (C) the person had received risk counseling as described in
 3 subsection (g).
 4 (9) The person committed an offense related to controlled
 5 substances listed in subsection (f) if:
 6 (A) the offense involved:
 7 (i) the delivery by any person to another person; or
 8 (ii) the use by any person on another person;
 9 of a contaminated sharp (as defined in IC 16-41-16-2) or other
 10 paraphernalia that creates an epidemiologically demonstrated
 11 risk of transmission of HIV by involving percutaneous contact;
 12 (B) the person had knowledge that the person was a carrier of
 13 the human immunodeficiency virus (HIV); and
 14 (C) the person had received risk counseling as described in
 15 subsection (g).
 16 (10) The person committed the offense in an area of a
 17 consolidated or second class city that is designated as a public
 18 safety improvement area by the Indiana criminal justice institute
 19 under IC 36-8-19.5.
 20 (11) The injury to or death of the victim of the crime was the
 21 result of shaken baby syndrome (as defined in IC 16-41-40-2).
 22 (12) Before the commission of the crime, the person administered
 23 to the victim of the crime, without the victim's knowledge, a
 24 sedating drug or a drug that had a hypnotic effect on the victim,
 25 or the person had knowledge that such a drug had been
 26 administered to the victim without the victim's knowledge.
 27 (13) The person:
 28 (A) committed trafficking with an inmate under IC 35-44-3-9;
 29 and
 30 (B) is an employee of the penal facility.
 31 (14) The person committed the offense in the presence or within
 32 hearing of a person who is less than eighteen (18) years of age
 33 who was not the victim of the offense.
 34 (c) The court may consider the following factors as mitigating
 35 circumstances or as favoring suspending the sentence and imposing
 36 probation:
 37 (1) The crime neither caused nor threatened serious harm to
 38 persons or property, or the person did not contemplate that it
 39 would do so.
 40 (2) The crime was the result of circumstances unlikely to recur.
 41 (3) The victim of the crime induced or facilitated the offense.
 42 (4) There are substantial grounds tending to excuse or justify the

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- 1 crime, though failing to establish a defense.
- 2 (5) The person acted under strong provocation.
- 3 (6) The person has no history of delinquency or criminal activity,
4 or the person has led a law-abiding life for a substantial period
5 before commission of the crime.
- 6 (7) The person is likely to respond affirmatively to probation or
7 short term imprisonment.
- 8 (8) The character and attitudes of the person indicate that the
9 person is unlikely to commit another crime.
- 10 (9) The person has made or will make restitution to the victim of
11 the crime for the injury, damage, or loss sustained.
- 12 (10) Imprisonment of the person will result in undue hardship to
13 the person or the dependents of the person.
- 14 (11) The person was convicted of a crime involving the use of
15 force against a person who had repeatedly inflicted physical or
16 sexual abuse upon the convicted person and evidence shows that
17 the convicted person suffered from the effects of battery as a
18 result of the past course of conduct of the individual who is the
19 victim of the crime for which the person was convicted.
- 20 (d) The criteria listed in subsections (b) and (c) do not limit the
21 matters that the court may consider in determining the sentence.
- 22 (e) For the purposes of this article, the following crimes are
23 considered sex crimes:
- 24 (1) Rape (IC 35-42-4-1).
- 25 (2) Criminal deviate conduct (IC 35-42-4-2).
- 26 (3) Child molesting (IC 35-42-4-3).
- 27 (4) Child seduction (IC 35-42-4-7).
- 28 (5) Prostitution (IC 35-45-4-2).
- 29 (6) Patronizing a prostitute (IC 35-45-4-3).
- 30 (7) Incest (IC 35-46-1-3).
- 31 (8) Sexual misconduct with a minor under IC 35-42-4-9(a).
- 32 (f) For the purposes of this article, the following crimes are
33 considered offenses related to controlled substances:
- 34 (1) Dealing in or manufacturing cocaine, a narcotic drug, or
35 methamphetamine (IC 35-48-4-1).
- 36 (2) Dealing in a schedule I, II, or III controlled substance
37 (IC 35-48-4-2).
- 38 (3) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- 39 (4) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 40 (5) Possession of cocaine, a narcotic drug, or methamphetamine
41 (IC 35-48-4-6).
- 42 (6) Possession of a controlled substance (IC 35-48-4-7).

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1 (7) Dealing in paraphernalia (IC 35-48-4-8.5).
 2 (8) Possession of paraphernalia (IC 35-48-4-8.3).
 3 (9) Offenses relating to registration (IC 35-48-4-14).
 4 (g) For the purposes of this section, a person received risk
 5 counseling if the person had been:
 6 (1) notified in person or in writing that tests have confirmed the
 7 presence of antibodies to the human immunodeficiency virus
 8 (HIV) in the person's blood; and
 9 (2) warned of the behavior that can transmit HIV.
 10 SECTION 19. IC 35-41-1-10.6 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2003]: **Sec. 10.6. (a) An individual is a**
 13 **"family or household member" of another person if the individual:**
 14 **(1) is a current or former spouse of the other person;**
 15 **(2) is dating or has dated the other person;**
 16 **(3) is or was engaged in a sexual relationship with the other**
 17 **person;**
 18 **(4) cohabits or previously cohabited with the other person;**
 19 **(5) is related by blood or adoption to the other person;**
 20 **(6) is or was related by marriage to the other person;**
 21 **(7) has or previously had an established legal relationship:**
 22 **(A) as a guardian of the other person;**
 23 **(B) as a ward of the other person;**
 24 **(C) as a custodian of the other person;**
 25 **(D) as a foster parent of the other person; or**
 26 **(E) in a capacity with respect to the other person similar to**
 27 **those listed in clauses (A) through (D); or**
 28 **(8) has a child in common with the other person.**
 29 **(b) An individual is a "family or household member" of both**
 30 **persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5),**
 31 **(a)(6), (a)(7), or (a)(8) applies if the individual is a minor child of**
 32 **one (1) of the persons.**
 33 SECTION 20. IC 35-41-1-10.7, AS ADDED BY P.L.133-2002,
 34 SECTION 63, IS REPEALED [EFFECTIVE JULY 1, 2003].

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